

EXHIBIT F

SCOTT MACEY
April 2, 2014

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION

4 -----X

5 JACK REESE, JAMES CICHANOFSKY, :
6 ROGER MILLER and GEORGE NOWLIN :
7 on behalf of themselves and :
8 a similarly situated class, :

9 Plaintiffs, : Hon. Patrick J. Duggan

10 vs. : Case No. 04-70592

11 CNH GLOBAL N.V. and :

12 CNH INDUSTRIAL AMERICA LLC, :

13 Defendants. :

14 -----X

15

16

17 Volume 3

18 Deposition of SCOTT MACEY, ESQUIRE

19 Washington, DC

20 Wednesday, April 2, 2014

21 3:00 p.m.

22

23

24 Pages: 370 - 443

25 Reported by: Janet A. Hamilton, RDR

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1 contributions has been pretty much at the rate of
2 inflation?

3 A. I understand.

4 Q. By adding the 60 percent factor to what the
5 CNH retirees will pay, their line will actually
6 increase each year, year over year, at a rate greater
7 than the inflation; correct?

8 A. The rate, because it starts, is because of
9 the starting point, because it starts from zero, the
10 rate of increase will be greater. I think you're --
11 that's probably right. I mean I haven't done -- can't
12 do a detailed analysis of it at this point but it seems
13 logical.

14 Q. Okay. This chart shows from 1999 to 2012
15 workers' earnings increasing by 47 percent. Do you see
16 that?

17 A. Yes, I do.

18 Q. Okay. That -- one thing that's true of these
19 retirees is that since 2005 their actual income is not
20 increasing; correct?

21 MR. ROGACZEWSKI: Objection to form.

22 THE WITNESS: Well, presumably their
23 retirement income from the companies or the two
24 companies that came out of their prior employer, that
25 would be the case, but I don't, I don't know what other

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1 income they would have.

2 BY MS. BRAULT:

3 Q. Okay. Do you know what the average income is
4 for a person who's retired?

5 MR. ROGACZEWSKI: Objection to form.

6 THE WITNESS: I don't.

7 BY MS. BRAULT:

8 Q. Is it -- do you know whether or not -- well,
9 strike that. Is there a point where these pension
10 retiree health care benefits become unaffordable to
11 somebody who's on a fixed income?

12 MR. ROGACZEWSKI: Objection to form.

13 THE WITNESS: It's certainly possible that it
14 could be if they -- you know, part of that will depend
15 on what happens with the overall cost inflationary
16 index for health care in general, and if that, you
17 know, if that, if that ends up trended the way this
18 line, these lines, the top two lines, especially the
19 overall health insurance premium line is in this chart,
20 I would say it could become unaffordable but it will
21 become unaffordable for the entire country. The entire
22 country as a society will not be able to afford that.

23 BY MS. BRAULT:

24 Q. Is it -- do you think that it matters how
25 much money somebody has in the bank or, you know, maybe

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1 earns from a different source will make a difference in
2 that unaffordability?

3 MR. ROGACZEWSKI: Objection to form.

4 THE WITNESS: I'm sorry. Say -- ask me that
5 again.

6 BY MS. BRAULT:

7 Q. Do you think that somebody's resources, a
8 family's resources, for example money in the bank or
9 money from other sources, would make a difference in
10 that unaffordability?

11 MR. ROGACZEWSKI: Same objection.

12 THE WITNESS: Presumably, yes.

13 BY MS. BRAULT:

14 Q. Do you think that -- well, let me ask you
15 this way. Is there a point at which the health care
16 benefits for this group of retirees becomes
17 unaffordable for CNH?

18 MR. ROGACZEWSKI: Objection to form.

19 THE WITNESS: I don't know the answer to
20 that, but it wouldn't surprise me if it does.

21 BY MS. BRAULT:

22 Q. Have you ever tried to figure out which,
23 which of the groups, CNH versus the retirees, have the
24 resources to take these benefits out the longest?

25 A. I don't, didn't have access to that type of

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1 that type of information. So I'm not sure if I
2 formulated any specific view. You know, I assumed that
3 it would be somewhere in the, you know, 5, 10, \$15,000
4 of combined pension from the various sources. Could be
5 more.

6 BY MS. BRAULT:

7 Q. Per -- I'm sorry. Five, 10, 15,000 annually?

8 A. Yeah. Could be more. I, you know, I've been
9 associated with companies that paid union workers
10 pensions well above that, those figures.

11 Q. Did you consider what the household income
12 would be or just for a single pensioner who received
13 social security?

14 MR. ROGACZEWSKI: Objection to form.

15 THE WITNESS: You know, I don't have -- it's
16 hard for me to know that because I didn't know their
17 pay history or anything, but you know, assuming
18 their -- I would assume their social security benefit
19 would be somewhere probably between 10 and \$15,000
20 annually plus the two sources of pension plus anything
21 else they may or may not have had, plus a spouse may
22 have continued to work. They may have -- they may work
23 beyond, you know, after retiring from the company,
24 maybe work at something else.

25 BY MS. BRAULT:

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1 Q. Mm-hmm. But your thought process was that
2 this is a group that has a household income per capita
3 of something around, something north of 15 to \$30,000 a
4 year?

5 A. You know, I really didn't do my analysis
6 based upon that. I did it based upon the, you know,
7 what other companies are doing, what the industry is
8 doing, what the company itself did with respect to its
9 newer retirees, what the benefit the workers had, you
10 know, what, you know, the industry had done, what the
11 government is doing. You know, I just didn't have
12 access to that type of information that you're asking
13 me about.

14 Q. Okay. Let's assume, just for a minute let's
15 assume that the average income, or let's just take a
16 pensioner who is, you know, subject to possibly the
17 imposition of this proposed plan, so one of our class
18 members, and assume that that person has maybe 40,
19 \$45,000 a year in family income or resources per year.
20 How much can you afford, what percentage of income can
21 you afford to spend on health care?

22 MR. ROGACZEWSKI: Objection.

23 BY MS. BRAULT:

24 Q. Is there some tipping point when things
25 become unaffordable?

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1 MR. ROGACZEWSKI: Objection to form.

2 THE WITNESS: Well, that would all be
3 individually, you know, decided.

4 BY MS. BRAULT:

5 Q. Sure.

6 A. In fact it would depend on the individual
7 circumstances, but certainly in any individual
8 situation there's presumably a tipping point.

9 Q. Is there some industry rule of thumb about
10 where that tipping point lies?

11 A. Well, there's a difference between the
12 tipping point and I guess what many people would think
13 in a typical situation here's how much you should
14 accord on a monthly or annual basis towards health
15 insurance coverage, not the usage but the coverage.

16 Q. Okay. And what is that?

17 A. Well, I just give you an example. The
18 government under the Affordable Care Act generally
19 thinks nine and a half or ten percent towards premiums,
20 not towards usage.

21 Q. And that would be -- after that it becomes
22 unaffordable?

23 A. They don't say unaffordable, but they're
24 willing to give you a subsidy towards it.

25 Q. Right. So my question to you is, is if

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1 somebody is -- and I recognize that I'm speaking of a
2 specific hypothetical.

3 A. Sure.

4 Q. A person who's in this class who's making
5 between 40, \$45,000 a year who is spending I guess ten
6 percent of their income on premiums, so \$4,000, \$4500 a
7 year, would actually probably be somebody who would
8 then, what, be unable to afford an increase up to 15
9 percent?

10 MR. ROGACZEWSKI: Objection to form.

11 THE WITNESS: Well, I guess it would be,
12 depend on their individual circumstances. You know, if
13 their total income was 45,000, could they afford 6,000?
14 Maybe some could and perhaps some couldn't, depending
15 on other circumstances.

16 BY MS. BRAULT:

17 Q. Whether their house is paid for, whether they
18 have a car, things like that?

19 A. Mm-hmm.

20 Q. Okay. What about like 20 percent? Do you
21 think that 20 percent of their overall income would
22 make it unaffordable from a practical level?

23 MR. ROGACZEWSKI: Objection to form.

24 THE WITNESS: Again it would depend on the
25 circumstances. You know, it's certainly possible that

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ACKNOWLEDGMENT OF DEPONENT

I, SCOTT MACEY, ESQUIRE, do hereby acknowledge
that I have read and examined the foregoing testimony,
and the same is a true, correct and complete
transcription of the testimony given by me, and any
corrections appear on the attached Errata sheet signed
by me.

5/7/14

(DATE)


(SIGNATURE)

CERTIFICATE OF SHORTHAND REPORTER

I, Janet A. Hamilton, Registered Diplomate Reporter and Notary Public before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my direction and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of April, 2014.



Registered Diplomate Reporter

My commission expires

March 14, 2018.